

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF COMMISSION)	DOCKET NO. RE-00000C-00-0377
CONSIDERATION AND POSSIBLE ACTION)	
ON REQUESTS FOR REHEARING AND)	DECISION NO. <u>63486</u>
RECONSIDERATION TO MODIFY DECISION)	
NO. 63364, ADOPTING THE)	
ENVIRONMENTAL PORTFOLIO STANDARD)	
RULES)	<u>ORDER</u>

Open Meeting
March 29, 2001
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On February 8, 2001, the Commission entered Decision No. 63364, adopting the Environmental Portfolio Standard Rules.
2. Five parties to the docket filed timely applications for rehearing and reconsideration of Decision No. 63364.
3. On March 9, 2001, the Commission granted the applications for rehearing to provide Staff an opportunity to review the requests and prepare recommendations to the Commission for its consideration and possible action. The Staff Report reflecting Staff's recommendations was filed and mailed to interested parties on March 15, 2001.
4. On March 13, 2001, Tucson Electric Power Company (TEP) filed comments on the applications for rehearing. TEP's comments addressed the application filed by Arizona Public Service Company and agree with Staff's recommendations.
5. Staff's recommendations are summarized below.
 - a. The rule R14-2-1618.F should be modified as follows:

Photovoltaic or solar thermal electric resources that are located on
a consumer's premises shall count toward the Environmental

Portfolio Standard applicable to the current Load-Serving Entity serving that consumer unless a different Load-Serving Entity is entitled to receive credit for such resources under the provisions of R14-2-1618.C.3.a.

- b. Decision No. 63364 should be modified by this order to provide the cooperatives an exemption from the rules as follows:
- (i) Affected Utilities, which are nonprofit, member-owned cooperatives should be exempt, at their own election, from compliance with the Environmental Portfolio Standard Rules, including the portfolio percentage requirements set forth in R14-2-1618.B, for a period of 180 days from the effective date of the order. Cooperatives electing exemption status should file a notice in this docket within 30 days of the effective date of the order.
 - (ii) Notwithstanding their exemption from compliance with the Environmental Portfolio Standard Rules, the exempt cooperatives could, at their own option, collect the Environmental Portfolio Surcharge authorized by R14-2-1618.A.2 and apply the proceeds so collected toward meeting the Environmental Portfolio percentage at the 180-day exemption period expiration, unless the exemption period is extended by the timely filing of a plan or by order of the Commission.
 - (iii) On or before the expiration of the 180-day exemption period, exempt cooperatives should file for Commission consideration a plan for meeting their portfolio requirements. In the alternative, a cooperative could file a request stating good cause why the exemption period should be extended. The timely filing of a plan or request for extension should extend the exemption period until the Commission considers and acts upon the plan or the request.
- c. Representatives of the exempt cooperatives should meet with Staff and representatives of the Rural Utilities Service and other appropriate federal agencies to discuss these matters to work towards achieving mutual goals within the context of the Environmental Portfolio Standard Rules.
- d. Section R14-2-1618.E should be deleted from the rules.
- e. Section R14-2-1601.39 should be deleted from the rules.
- f. All other matters raised in the five applications for rehearing or reconsideration filed in this docket should be denied by the Commission.

CONCLUSIONS OF LAW

1. Pursuant to the Arizona Constitution, Article XV, Section 3 and the Arizona Revised Statutes,

1 Title 40 generally, the Commission has jurisdiction over this matter.

2 2. The Commission, having reviewed the applications, Staff's Report filed March 15, 2001, and
3 Staff's Memorandum dated March 20, 2001, concludes that it is in the public interest to approve and adopt
4 Staff's recommendations.

5 ORDER

6 THEREFORE, IT IS ORDERED that R14-2-1618.F be modified as proposed in Finding of Fact
7 No. 5.a.

8 IT IS FURTHER ORDERED that Affected Utilities, which are nonprofit, member-owned
9 cooperatives shall be exempt, at their own election, from compliance with the Environmental Portfolio
10 Standard Rules, including the portfolio percentage requirements set forth in R14-2-1618.B, for a period of
11 180 days from the effective date of the order. Cooperatives electing exemption status shall file a notice in
12 this docket within 30 days of the effective date of the order.

13 IT IS FURTHER ORDERED that the exempt cooperatives may, at their own option, collect the
14 Environmental Portfolio Surcharge authorized by R14-2-1618.A.2 and apply the proceeds so collected
15 toward meeting the Environmental Portfolio percentage at the 180-day exemption period expiration, unless
16 the exemption period is extended by the timely filing of a plan or by order of the Commission.

17 IT IS FURTHER ORDERED that on or before the expiration of the 180-day exemption period,
18 exempt cooperatives shall file for Commission consideration a plan for meeting their portfolio requirements.
19 In the alternative, a cooperative may file a request stating good cause why the exemption period should be
20 extended. The timely filing of a plan or request for extension shall extend the exemption period until the
21 Commission considers and acts upon the plan or the request.

22 IT IS FURTHER ORDERED that representatives of the exempt cooperatives shall meet with Staff
23 and representatives of the Rural Utilities Service and other appropriate federal agencies to discuss these
24 matters to work towards achieving mutual goals within the context of the Environmental Portfolio Standard
25 Rules.

26 IT IS FURTHER ORDERED that Section R14-2-1618.E shall be deleted from the rules.

27 . . .

28 . . .

1 IT IS FURTHER ORDERED that Section R14-2-1601.39 shall be deleted from the rules.

2 IT IS FURTHER ORDERED that all other matters raised in the five applications for rehearing or
3 reconsideration filed in this docket are denied.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5
6 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

7
8 CHAIRMAN

COMMISSIONER

COMMISSIONER

9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
10 Secretary of the Arizona Corporation Commission, have hereunto,
11 set my hand and caused the official seal of this Commission to be
affixed at the Capitol, in the City of Phoenix, this _____ day of
12 , 2001.

13
14 _____
BRIAN C. McNEIL
15 Executive Secretary

16
17 DISSENT: _____

18 DRS:BEK:lhnm
19
20
21
22
23
24
25
26
27
28

1 SERVICE LIST FOR: ENVIRONMENTAL PORTFOLIO STANDARD RULEMAKING

2 DOCKET NO. RE-00000C-00-0377

3 Carl Dabelstein
4 Citizens Communications Company
5 2901 North Central Avenue, Suite 1660
6 Phoenix, Arizona 85004

7 Daniel Musgrove
8 Universal Entech, LLC
9 5501 North 7th Ave., PMB 233
10 Phoenix, AZ 89013

11 Jessica Youle, Sr. Staff Attorney
12 Salt River Project
13 Mail Station PAB300
14 P. O. Box 52025
15 Phoenix, Arizona 85072-2025

16 Jana Brandt, Reg. Agcy. Rep.
17 Salt River Project–
18 Mail Station PAB221
19 P. O. Box 52025
20 Phoenix, Arizona 85072-2025

21 Christopher Hitchcock, Esq.
22 HITCHCOCK & HICKS
23 P.O. Box 87
24 Bisbee, AZ 85603

25 Ms. Betty Pruitt
26 ADOC-EO
27 3800 N. Central, #1200
28 Phoenix, AZ 85012

Arturo Rivera, Pres.
Renewable Technology Co.
1242 E. Washington St., Ste 200
Phoenix, AZ 85034

Robert S. Lynch
Arizona Transmission Dependent Utility Group
340 E. Palm Lane, Suite 140
Phoenix, AZ 85004-4529

Lee Tanner
Electrisol, Ltd.
1215 E. Harmont Dr.
Phoenix, AZ 85020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dale Rogers
Rocketdyne Division
Boeing North America
P.O. Box 7922-MS FA-66
Canoga Park, CA 91309-7922

Steve Chalmers
Powermark Corporation
4044 E. Whitton
Phoenix, AZ 85018

Michael Neary
Ariseia
2034 N. 13th Street
Phoenix, AZ 85001

Jan Miller
SRP
1600 N. Priest Dr.
Tempe, AZ 85281

Vincent Hunt
City of Tucson
4004 S. Park Ave., Bldg. #2
Tucson, AZ 85714

Michelle L. Hart
Photocomm, Inc.
7681 E. Gray Road
Scottsdale, AZ 85260

Harry Braun, III
Stirling Energy Systems
6245 N. 24th Parkway, Suite 209
Phoenix, AZ 85016

Robert Walker
Entech, Inc.
1077 Chisolm Trail
Keller, TX 76248

Moneer H. Azzam
ASE Americas
4 Suburban Park Drive
Billerica, ME 01821

Ray Dracker
Bechtel Corporation
P.O.Box 193965
San Francisco, CA 94119

Barry L. Butler, PH.D
Science Applications Int'l Corp.
10260 Campus Point Drive – MS-C2
San Diego, CA 92121

1
2 Robert H. Annan
3 6605 E. Evening Glow Drive
4 Scottsdale, AZ 85262

5 Rick Gilliam
6 LAW Fund
7 2260 Baseline Road, Suite 200
8 Boulder, CO 80302

9 Vahan Garboushian
10 Amonix, Inc.
11 3425 Fujita Street
12 Torrance, CA 90505

13 Dan Greenberg
14 Ascension Technology
15 235 Bear Hill Road
16 Waltham, ME 02154

17 Kathy Kelly
18 Corp. for Solar Technology & Renewable
19 6863 W. Charleston
20 Las Vegas, NV 89117

21 Rick Mack
22 TEP
23 220 W. 6th Street
24 Tucson, AZ 85701

25 Solar Energy Industries Assoc.
26 1111 19th St. N, Suite 260
27 Arlington, VA 22209-1712

28 Howard Wenger
Pacific Energy Group
32 Valla Court
Walnut Creek, CA 94596

Jim B. Combs
Conservative Energy Systems
40 W. Baseline, Suite 112
Mesa, AZ 85210

James H. Caldwell, Jr.
CEERT
P.O. Box 26
Tracy's Landing, MD 20779

Herb Hayden
APS
P.O.Box 53999 – Mail Station 9110
Phoenix, AZ 85072-3999

Eric Wills
Daggett Leasing Corporation

1 20668 Paseo De La Cumbre
Yorba Linda, CA 92887

2 Alphonse Bellac
York Research Corporation
3 6 Ladyslipper Lane
Old Lyme, CT 06371

4 Jane Weissman
5 PV4U
15 Hayden Street
6 Boston, Massachusetts 02131-4013

7 David Berry
Resource Management International, Inc.
8 302 N. First Avenue, Suite 810
Phoenix, AZ 85003

9 Barry M. Goldwater, Jr.
10 Ariselia
3104 E. Camelback Road, Suite 274
11 Phoenix, AZ 85016

12 Frank Brandt
1270 E. Appalachian Road
13 Flagstaff, AZ 86004

14 Christy Herig
1617 Cole Blvd.
15 Golden, CO 80401

16 Mark Randall
Daystar Consulting, LLC
17 P.O. Box 761
Clarksdale, AZ 86324

18 Jane Winiecki
19 Yavapai-Apache Nation
Economic Development Authority
20 P.O. Box 1188
Camp Verde, AZ 86322

21 Fred Sanchez
22 Yavapai-Apache Nation
P.O. Box 1188
23 Camp Verde, AZ 86322

24 Phyllis Bigpond
Inter Tribal Council of Arizona
25 2214 N. Central, Suite 100
Phoenix, AZ 85004

26 Robert Jackson
27 Colorado River Indian Tribes
Route 1 – Box 23-B
28 Parker, AZ 85334

Steven Brown

Yavapai Tribe

530 E. Merritt

Prescott, AZ 86301

Rory Majenty

Ft. McDowell Mohave Apache Indian Community

P.O. Box 17779

Fountain hills, AZ 85269

Rick Tewa

Office of Economic Development

The Hope Tribe

P.O. Box 123

Kykotsmovi, AZ 86039

Debbie Tewa

Native Sun

P.O. Box 660

Kykotsmovi, AZ 86039

Cameron Danies

Hualapai Tribe

P.O. Box 179

Peach Springs, AZ 86434

Jimmy Daniels

Navajo Tribal Utility Authority

P.O. Box 170

Ft. Defiance, AZ 86504

Leonard Gold

398 S. Mill Avenue, Suite 306

Tempe, AZ 85281

Steve Secrest

Golden Genesis Company

P.O. Box 14230

Scottsdale, AZ 85267

Jeff Schlegel

1167 W. Samalayuca Drive

Tucson, AZ 85704-3224

Clyde Hostetter

3055-190 N. Red Mountain

Mesa, AZ 85207

ACAA

2627 N. 3rd Street, Suite 2

Phoenix, AZ 85004

Michael Grant

Gallagher & Kennedy

2575 E. Camelback Rd.

Phoenix, AZ 85016

1 Peter Glaser
2 Shook, Hardy & Bacon, LLP
3 600 14th Street, N.W., Suite 800
4 Washington, DC 20005-2004

5 David G. Calley
6 Southwest Windpower, Inc.
7 2131 N. First Street
8 Flagstaff, AZ 86004

9 Kenneth R. Saline
10 K.R. Saline & Associates
11 160 N. Pasadena, Suite 101
12 Mesa, AZ 85201-6764

13 Tom Lepley
14 Phaser Energy Co.
15 4202 E. Evans Drive
16 Phoenix, AZ 85032

17 Mike Patterson
18 Rt.1 – Box
19 Swansea
20 Lone Pine, CA 83545

21 Derrick Rebello
22 Quantum Consulting
23 2030 Addison Street
24 Berkeley, CA 94704

25 Bryan Scott Canada
26 620 E. Broadway Lane
27 Tempe, AZ 85282

28 C. Webb Crockett
Fennemore Craig
3003 N. Central Avenue, Suite 2600
Phoenix, AZ 85012-2913

Scott Wakefield
RUCO
2828 N. Central Avenue, Suite 1200
Phoenix, AZ 85004

Douglas C. Nelson
Douglas C. Nelson, P.C.
7000 North 16th Street, Suite 120-307
Phoenix, AZ 85020

Chris Sherring
PVI
171 Commercial Street
Sunnyvale, CA 94086

1 Chris King
Utility.Com, Inc.
2 828 San Pablo Avenue
Albany, CA 94706

3 Donald W. Aitken, PH.D
Union of Concerned Scientists
4 2397 Shattuck Avenue, Suite 203
Berkeley, CA 94704

5 Barbara Klemstine
6 P.O. Box 53999
Phoenix, AZ 85072-3999

7 David Couture
8 TEP
220 W. 6th Street
9 P.O. Box 711
Tucson, AZ 85702-0711

10 David L. Deibel
11 City of Tucson
P.O. Box 27210
12 Tucson, AZ 85726-7210

13 Paul R. Michaud
Martinez & Curtis
14 2712 North 7th Street
Phoenix, AZ 85006-01090

15 Jon Wellinghoff
16 411 Wedgewood Drive
Henderson, NV 89014

17 Edward Salgian
18 Distributed Energy Association of Arizona
7250 North 15th Street, Suite 102
19 Phoenix, AZ 85020-5270

20 Thomas Hine
10632 North 11th Street
21 Phoenix, AZ 85020

22 Steven M. Wheeler
Thomas L. Mumaw
23 Jeffrey B. Guldner
Snell & Wilmer
24 One Arizona Center
Phoenix, AZ 85004

25 Raymond S. Heyman
26 Roshka, Heyman & DeWulf
400 North Fifth Street, Suite 1000
27 Phoenix, AZ 85004-3902

28

1 Kenneth C. Sundlof, Jr.
2 Jennings, Strouss & Salmon, P.L.C.
3 Two N. Central, 16th Floor
4 Phoenix, AZ 85004-2393

5 Jana Van Ness
6 Manager, State Regulations
7 Arizona Public Service Company
8 P.O. Box 53999 MS 9905
9 Phoenix, AZ 85072-3999

10 Daniel Musgrove
11 Universal Entech, LLC
12 5501 N. 7th Ave., PMB 233
13 Phoenix, AZ 85013

14 Michael W. Patten
15 Roshka Heyman & DeWulf, PLC
16 Two Arizona Center
17 400 N. 5th St., Ste 1000
18 Phoenix, AZ 85004-3906

19 Russell E. Jones
20 Waterfall Economidis Caldwell Hanshaw & Villamana
21 5210 E. Williams Circle, Ste 800
22 Tucson, AZ 85711

23 Hearing Officer
24 Arizona Corporation Commission
25 1200 West Washington Street
26 Phoenix, AZ 85007

27 Deborah R. Scott
28 Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007